

REMARKS/ARGUMENTS

Claims 1-12 are pending in this application, with claim 1 being the only independent claim. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

Claims 1-11 stand rejected under 35 U.S.C. §103 as unpatentable over EP 1 249 869 (Mattman) in view of U.S. Patent No. 4,521,476 (Asai), U.S. Patent No. 3,714,709 (Liederbach), and further in view of U.S. Patent No. 5,245,510 (Honda).

Claim 12 stands rejected under 35 U.S.C. §103 as unpatentable over Mattman, Asai, Liederbach, and Honda, and further in view of U.S. Patent No. 6,417,027 (Akram).

As discussed briefly with the Examiner on March 28, 2008, and as described in more detail below, Mattman can not be considered a prior art reference for the present application. Accordingly, the rejections of claims 1-12 are not proper and should be withdrawn.

The present application was filed on July 8, 2003 and claims priority to DE 102 30 712.1, which was filed on July 8, 2002. Mattman was published on October 16, 2002 and was filed on April 10, 2002. The claim to priority of the present application is perfected by filing concurrently herewith a certified translation of the priority document. Accordingly, the constructive date of the present invention can be considered to be the filing date of the priority document.

Since Mattman was not published before the foreign priority date of the present application (the constructive invention date of the present application), Mattman does not qualify as prior art under 35 U.S.C. §102(a).

Since Mattman was not published more than one year before the U.S. filing date of the present application, Mattman does not qualify as prior art under 35 U.S.C. §102(b).

Since Mattman was not patented prior to the filing date of the present application for patent, Mattman does not qualify as prior art under 35 U.S.C. §102(d).

Since Mattman is an EP document, Mattman does not qualify as prior art under 35 U.S.C. §102(e).


In view of the above remarks, Mattman does not qualify as prior art in the present application. Accordingly, the rejections of claims 1-12 should be withdrawn.

The application is now deemed to be in condition for allowance and notice to that effect is solicited.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP

By 
Alfred W. Froeblich
Reg. No. 38,887
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: April 28, 2008